

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HARVEY J. KESNER,

Plaintiff,

-v-

TERI BUHL,

Defendant.

20 Civ. 3454 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court's March 10, 2022 Opinion & Order, which resolved the remaining libel claims and counterclaim in this case, extensively referenced an SEC action, and the SEC's First Amended Complaint ("FAC") in that action. *See* Dkt. 155. In their respective Local Rule 56.1 Statements, the parties agreed that the SEC FAC's references to "Company C" were to MGT Capital, and the SEC's references to "Company B" were to MabVax Therapeutics ("MabVax"). *See* Dkt. 152 ¶ 12.

On March 18, 2022, the Court received an email from counsel for MGT Capital stating that the SEC FAC's references to "Company B" were actually to MGT Capital, and that the references to "Company C" were to MabVax. Counsel for MGT Capital requested that the Court issue an order reflecting that correction. Counsel for MGT Capital did not state, however, whether it had confirmed this with the SEC, or with counsel in this case.

By March 25, 2022, the parties are directed to jointly file a letter stating whether (1) they agree that "Company B" is MGT Capital and "Company C" is MabVax; (2) the basis for their positions as to which company is represented by "Company B" and which by "Company C"; and

(3) whether the SEC, which authored the FAC, has publicly identified the companies to which it referred to as “Company B” and “Company C.”

Following receipt of that letter, the Court will determine what, if any, correction is in order.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: March 18, 2022  
New York, New York